

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 7

BMT DESIGNERS & PLANNERS, INC.,
fdbा BMT D&P, fdbा BMT fdbा BMT DAS US,

Case No. 22-10123 (MG)

Debtor.

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**TRUSTEE'S EX PARTE MOTION FOR AN ORDER SHORTENING THE
NOTICE OF THE HEARING TO CONSIDER THE CHAPTER 7
TRUSTEE'S MOTION FOR ENTRY OF AN ORDER, PURSUANT TO 11
U.S.C. § 365, AUTHORIZING THE CHAPTER 7 TRUSTEE TO ASSUME
THE EXECUTORY CONTRACT BY AND BETWEEN THE DEBTOR AND
NORTHROP GRUMMAN SYSTEMS CORPORATION AND TO ASSIGN
THE EXECUTORY CONTRACT TO VIGOR WORKS LLC
AND FOR RELATED RELIEF**

TO THE HONORABLE MARTIN GLENN,
CHIEF UNITED STATES BANKRUTPCY JUDGE:

Salvatore LaMonica, solely in his capacity as the Chapter 7 Trustee ("Trustee") of the Debtor's Estate, BMT Designers & Planners, Inc., fdbा BMT D&P, fdbा BMT, fdbा BMT DAS US, by his counsel, LaMonica Herbst & Maniscalco, LLP, submits this motion ("Motion"), for entry of an Order ("Scheduling Order"), pursuant to Bankruptcy Rule 9006(c) and Local Rules Rules 6006-1, 9006-1(b) and (c) and 9077-1(a), shortening the notice period for the hearing to consider the Trustee's motion ("365 Motion")¹ seeking the entry of an Order, pursuant to Bankruptcy Code section 365(a), authorizing the Trustee to assume the executory contract with Northrop Grumman Systems Corporation ("Northrop") and to assign this executory contract to Vigor Works LLC ("Vigor") as set forth in the proposed Term Sheet annexed to the 365 Motion as Exhibit "A", and for such other, further and different relief as the Court may deem just and

¹ Capitalized terms not otherwise defined herein shall have the definition ascribe to them in the 365 Motion.

proper, which is concurrently filed herewith and incorporated by reference. In support of this Motion, the Trustee respectfully represents as follows:

JURISDICTION

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. On February 1, 2022 (“Filing Date”), the Debtor filed a voluntary petition for relief pursuant to Chapter 7 of the Bankruptcy Code in the Court.

3. Salvatore LaMonica was appointed as the interim Chapter 7 Trustee of the Debtor’s estate, has since duly qualified and is the permanent Trustee administering the Estate.

4. The Debtor’s meeting of creditors, Bankruptcy Code section 341, took place on February 24, 2022.

5. The last day to file claims against the Estate was May 31, 2022.

6. The remaining factual background of this case is more fully set forth in the 365 Motion.

RELIEF REQUESTED AND BASIS FOR RELIEF

7. By this Motion, the Trustee seeks the entry of the Scheduling Order shortening the notice period for the 365 Motion. The proposed Scheduling Order is annexed as Exhibit A.

8. Local Bankruptcy Rule 9006-1(b) provides:

All Other Motions. Except as otherwise ordered by the Court, or required by the Bankruptcy Rules, all other motion papers shall be served at least fourteen (14) days before the return date. Where service is made at least fourteen (14) days before the return date, any answering papers shall be served so as to ensure actual receipt

not later than seven (7) days before the return date, unless the Court orders otherwise.

9. Bankruptcy Rule 9006(c) and Local Bankruptcy Rule 9077-1(a) provide that the Court, for cause shown, may in its discretion (with or without motion or notice) reduce such notice periods. Further, pursuant to Bankruptcy Rule 9077, the Court has authority to regulate the time within which and the form and matter in which, notice shall be given, which includes the authority to determine appropriate notice for conducting a hearing on the matters presented by the 365 Motion.

10. Here, cause exists to shorten the applicable notice requirements. As set forth more fully in the 365 Motion, the Term Sheet requires that the Trustee obtain Court approval of assumption and assignment of the Northrop Subcontract on or before June 30, 2022. Time is of the essence for Vigor because Vigor must complete the construction of the MSV(L) for the United States Army under the Prime Contract. In order for Vigor to complete the construction, Vigor needs to assume the Northrop Subcontract to allow work to progress as seamlessly and quickly as possible. In fact, the United States Army, through counsel, has continually been in contact with the Trustee for a status update, and has advised the Trustee that it is imperative that the Northrop Subcontract be assumed immediately.

11. Accordingly, the Trustee submits it is imperative that the 365 Motion be approved on an expedited basis.

12. The Trustee proposes to serve the Scheduling Order and the 365 Motion by electronic mail or overnight mail (where electronic service cannot be effectuated) upon: (i) the Debtor, through their counsel; (ii) the Office of the United States Trustee; (iii) parties who have filed a Notice of Appearance in this case; (iv) all parties that have filed claims against the Estate; and (v) the parties to the proposed Term Sheet, through their counsels.

13. The Trustee does not believe that any parties in interest would be prejudiced by the shortened notice requested herein or by the approval of this Motion on an *ex parte* basis.

NO PRIOR REQUEST

14. No prior request for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Trustee respectfully requests the entry of the Order, substantially in the form attached hereto as Exhibit A, together with such other and further relief as deemed just and proper.

Dated: June 16, 2022
Wantagh, New York

LaMONICA HERBST & MANISCALCO, LLP
Counsel to Salvatore LaMonica, as Chapter 7
Trustee

By: s/Jacqulyn S. Loftin
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UNITED STATES BANKRUPTCY COURT
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AFFIRMATION PURSUANT TO LOCAL BANKRUPTCY RULE 9077-1

Jacqulyn S. Loftin, Esq., an attorney duly admitted to practice before this Court, affirms under penalty of perjury:

1. I am a partner of the law firm LaMonica Herbst & Maniscalco, LLP, counsel to Salvatore LaMonica, solely in his capacity as the Chapter 7 Trustee (“Trustee”) of the Debtor Estate, BMT Designers & Planners, Inc., fdbा BMT D&P, fdbा BMT, fdbा BMT DAS US, pending in the United States Bankruptcy Court, Southern District of New York (“Court”).

2. I submit this affirmation in accordance with Local Bankruptcy Rule 9077(1) in support of the Trustee’s *ex parte* motion (“Motion”) seeking the entry of an Order scheduling a hearing on shortened notice (“Scheduling Order”) to consider the Trustee’s motion (“365 Motion”) seeking the entry of an Order, pursuant to Bankruptcy Code section 365(a), authorizing the Trustee to assume the executory contract with Northrop Grumman Systems Corporation (“Northrop”) and to assign this executory contract to Vigor Works LLC (“Vigor”) as set forth in the proposed Term Sheet annexed to the 365 Motion as Exhibit “A”, and for such other, further and different relief as the Court may deem just and proper.

3. As set forth in the Motion, the Trustee is proceeding by the proposed Scheduling Order rather than by notice of motion for various reasons including, among other things, that the Term Sheet requires that the Northrop Subcontract be assumed by the Trustee and assigned to

Vigor on or before June 30, 2022 so that Vigor can complete the construction of the MSV(L) for the United States Army under the Prime Contract.

4. For these reasons, the Trustee requests entry of the Scheduling Order scheduling a hearing on shortened notice of the 365 Motion.

5. No previous request for relief sought by the Trustee has been made to this or any other Court.

Dated: June 16, 2022
Wantagh, New York

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